–

THE HON'BLE SRI JUSTICE K.G. SHANKAR

WRIT PETITION NOS. 6413 OF 2004

AND 17870 OF 2006

COMMON ORDER:

These two writ petitions are disposed of through this common order as they arise from the award in I.D.No. 64 of 2001 on the file of Industrial Tribunal – cum- Labour Court, Warangal.

W.P.No. 6413 of 2004 is laid by the Superintending Engineer and the Executive Engineer of NSLC, Tekulapally, Khammam District against the employee who is arrayed as first respondent therein. The employee in his turn filed W.P.No. 17870 of 2006 arraying petitioners 1 and 2 in W.P.No. 6413 of 2004 as respondents 2 and 3. The parties are referred to as they are arrayed in W.P.No. 6413 of 2004.

The first respondent claimed that he was a watchman under Nagarjuna Sagar Left Canal Command Area Development Authority (for short "CADA") from 12.2.1999 till 30.4.2000 and was removed through oral orders dated 1.5.2000 without following Chapter V- A of the Industrial Disputes Act. Consequently, the first respondent laid I.D.No. 64 of 2001 before the Industrial

Tribunal –cum- Labour Court, Warangal. The same was allowed directing the petitioners herein to reinstate the first respondent into service as Watchman on daily wages with continuity of services without back wages. Assailing the same the first respondent filed W.P.No. 17870 of 2006, seeking for back wages.

Before the Industrial Tribunal –cum- Labour Court, the first respondent examined himself as WW-1 and examined another witness his co-employee as WW-2. He has also marked Exs. W-1 to W-9. Indeed, the petitioners herein examined as MW-1 and MW-2 before the Industrial Tribunal –cum- Labour Court but did not choose to exhibit any documents.

It is the case of the learned Assistant Government Pleader that the first respondent was never an NMR under the petitioners; and that the question of removal and reinstatement of the first respondent therefore does not arise. The Labour Court considered the evidence and also the documents and concluded that the first respondent was indeed working as watchman with the petitioners and that he worked as watchman for more than 240 days. The appreciation of evidence of the Industrial Tribunal-cum-Labour Court is appropriate and does not deserve to be interfered with. The finding of the Industrial Tribunal –cum- Labour Court is not perverse in any sense so much so the conclusion of the

Court that the first respondent herein was a watchman on daily wage basis cannot be interfered with.

The Writ Petition filed by the petitioners in W.P.No. 6413 of 2004 consequently deserves to be dismissed. Where the first respondent is only a daily wager and where he is ordered to be reinstated without back wages, I also consider that the Industrial Tribunal –cum-Labour Court properly appreciated the circumstances of the case that the first respondent was not a regular employee but was only a daily wager and ordered reinstatement without back wages. I, therefore, consider that the first respondent is not entitled to reliefs sought for by him through W.P.No. 17870 of 2006. Consequently, both the Writ Petitions deserve to be dismissed.

Accordingly, both the Writ Petitions dismissed. No costs. Miscellaneous Petitions pending, if any, shall also stand closed.

_____

K.G.SHANKAR, J

DATE: 21.08.2013
KA